

Application # 10/667,920  
Office Action Response dated February 3, 2006  
Reply to Office Action dated November 4, 2005

**PATENT**  
**P-6015**

### **REMARKS**

Claims 1, 17, 25, and 37 have been amended in incorporate some of the limitations of dependent claims 4, 19, 31 and 39 respectively.

Claims 4, 19, 31, and 39 have been cancelled.

Claims 1-3, 5-18, 20-30, 32-38, and 40 are now pending in the application.

### **Claims Rejection – 35 USC § 102**

Claims 1-7, 10, 11, 17-19 and 37-39 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,050,451 to Columbus ("Columbus").

This rejection is respectfully traversed.

Of the claims rejected, claims 4, 9 and 19 have been cancelled; amended claims 1, 17 and 37 are independent. Claims 2, 3, 10, and 11 are dependent on amended claim 1, claim 18 is dependent on amended claim 17 and claim 38 is dependent on amended claim 37.

Amended claim 1 recites a specimen collection container comprising among other things; *wherein said vent is adapted to seal upon contact with said liquid sample.*

Amended claim 17 recites a specimen collection container comprising, among other things;

*wherein said venting closure is adapted to seal upon contact with said liquid sample.*

Amended claim 37 recites a method for collecting a biological sample comprising among other things;

*a) providing a non-evacuated collection tube including a vent adapted for displacement of air from within said collection tube to an exterior environment and a piercible closure providing access to the interior of said collection tube, wherein said vent is adapted to seal upon contact with said biological sample;*

In contrast, Columbus discloses a blood collection and separation device in the form of a non-evacuated collection tube (30) that defines a vent aperture (42) in a sidewall (32) of the tube body, which is sealed by the application of a self adhering tape (58) over the aperture after blood collection. In fact, Columbus states at column 6 lines 26-29:

"There is no leakage from aperture 42 prior to the application of tape 58, since the capillary effect retains the blood within the filler and the aperture 42 is not in contact with the filler."

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Thus Columbus fails to disclose the claimed feature of: a vent adapted to seal upon contact with said liquid sample. Therefore, amended claims 1, 17 and 37 and dependent claims 2, 3, 10, 11, 18 and 38 are not anticipated by Columbus.

Furthermore the invention defined by amended claims 1, 17 and 37 is neither taught nor rendered obvious by Columbus. Columbus has no suggestion of a vent adapted to seal on contact with the liquid sample. In contrast, the vent aperture of Columbus is sealed by the manual application of a self adhering tape. Accordingly, it is submitted that the biological sample collection container as defined by claims 16, 18 and 20-30 are not taught or suggested by Columbus.

**Claims Rejection – 35 USC § 103**

Claims 8, 9, 12-16, 20-36 and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Columbus in view of U.S. Patent No. 6,805,842 to Bodner et al. ("Bodner"):

This rejection is respectfully traversed.

Of the claims rejected, amended claim 25 is independent with claims 26-36 dependent thereon.

Amended claim 25 recites a specimen collection container comprising, among other things;

*wherein said vent is adapted to seal upon contact with said liquid sample.*

Columbus fails to disclose, teach or suggest the invention of amended 25 for the same reasons as discussed above for amended claims 1, 17, and 37.

Bodnar was cited for teaching the use of an internal container or expandable bag, positioned within the interior chamber of a collection tube mated with the top end of the collection tube and the pierceable closure.

Bodnar does not overcome the deficiencies of Columbus as set forth above and claims 8, 9, 12-16 being dependent on amended claim 1, claims 20-24 being dependent on amended claim 17, claims 26-36 being dependent on amended claim 25 and claim 40 being dependent on amended claim 37, are patentable over the cited references.

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In view of the amendments and remarks herein, applicant submits the claims are patentably distinct over the prior art and allowable in form.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 02-1666.

If the Examiner has any questions or comments relating to the present application, he or she is respectfully invited to contact Applicant's agent at the telephone number set forth below.

Respectfully submitted,



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